

**Letter of Findings: 01-20191570
Individual Income Tax
For The Tax Year 2016**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual failed to support his claim that the Department's adjusted gross income figure was incorrect.

ISSUE

I. Individual Income Tax - Burden of Proof.

Authority: IC § 6-3-1-3.5; IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); IRC § 61; IRC § 62.

Taxpayer protests a proposed assessment of individual income tax for the 2016 tax year.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who filed an income tax return in 2016 and was issued a refund. After reviewing its records and cross-referencing with federal information maintained by the Internal Revenue Service ("IRS"), the Indiana Department of Revenue ("Department") found a discrepancy in the reported amount of adjusted gross income ("AGI"). The Department recalculated Taxpayer's liability and issued a proposed assessment for income tax, penalty, interest, and to recover the previously issued refund. Taxpayer protested the proposed assessment. An administrative hearing was held and this decision results. Other facts will be provided as necessary.

I. Individual Income Tax - Burden of Proof.

DISCUSSION

While Taxpayer agrees that a recalculation of his AGI was necessary, he disagrees with the Department's calculations. Taxpayer believes that the Department improperly treated the sale of stock in calculating his AGI.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid. . . . The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

Indiana defines the term adjusted gross income "as [it is] defined in Section 62 of the Internal Revenue Code" with Indiana-specific modifications. IC § 6-3-1-3.5(a). Section 62 of the Internal Revenue Code defines adjusted gross income as "gross income minus deductions." IRC § 62(a). Gross income is, in turn, defined as "all income from whatever source derived." IRC § 61(a).

As support for his position, Taxpayer provided the Department with his IRS Record of Account, several

documents showing his sale of stock in 2016, and an amended 2016 IT-40 showing what Taxpayer believed to be his correct liability for the tax year. Although the substance of Taxpayer's argument initially focused on the incorrect calculation of adjusted gross income, the Department's AGI value was supported by the IRS Record of Account. Further review of Taxpayer's amended return shows that he failed to account for any county income tax due for 2016. After including county income tax, Taxpayer's amended return differed from the Department's proposed assessment by less than fifty dollars. Taxpayer's stock sale documentation did not explain this remaining discrepancy. Because Taxpayer did not provide sufficient documentation to show that the Department incorrectly calculated adjusted gross income, Taxpayer failed to meet his burden under IC § 6-8.1-5-1.

FINDING

Taxpayer's protest is respectfully denied.

May 19, 2020

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